

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 12-8273 GAF (MRWx)	Date	December 12, 2012
Title	Robert Garcia et al v. Joseph C. Brandt		

Present: The Honorable	GARY ALLEN FEESS	
Renee Fisher	None	N/A
Deputy Clerk	Court Reporter / Recorder	Tape No.
Attorneys Present for Plaintiffs:	Attorneys Present for Defendants:	
None	None	

Proceedings: (In Chambers)

ORDER TO SHOW CAUSE

Plaintiff Robert Garcia filed a complaint against Defendants Joseph Brandt and the United States Department of the Interior Fish and Wildlife Service, bringing personal injury claims arising from a car accident. (Docket No. 1, [Not. of Removal (“Not.”)], Ex. 1, [Compl.].) The Court was not convinced that jurisdiction was proper because the complaint was silent as to whether Plaintiff complied with the FTCA and exhausted his administrative remedies prior to filing this action, and accordingly issued an order to show cause why the case should not be dismissed for lack of jurisdiction. (Docket No. 7, [10/17/12 Order].) Plaintiff was ordered to show cause by close of business on Tuesday, November 13, 2012. (Id.)

To date, Plaintiff has not responded. The Court, cognizant that Plaintiff is proceeding pro se, reiterates the issue at hand and will give Plaintiff one more opportunity to respond. The Federal Tort Claims Act (“FTCA”), 28 U.S.C. § 2675(a), provides that:

An action shall not be instituted upon a claim against the United States for money damages . . . for personal injury or death caused by the negligence or wrongful act or omission of any employee of the Government . . . unless the claimant shall have first presented the claim to the appropriate Federal agency and his claim shall have been finally denied by the agency . . .

In other words, “[a] tort claimant may not commence proceedings in court against the United States without first filing [his] claim with an appropriate federal agency and either receiving a conclusive denial of the claim from the agency or waiting for six months to elapse

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without a final disposition of the claim being made.” Jerves v. United States, 966 F.2d 517, 519 (9th Cir. 1992). This is a jurisdictional prerequisite. Id.

Accordingly, Plaintiff is **ORDERED TO SHOW CAUSE**, by close of business on **Friday, December 28, 2012**, why this case should not be dismissed for lack of jurisdiction. The filing of an amended complaint, with factual support sufficient to show that Plaintiff has exhausted his administrative remedies, will satisfy this order.

IT IS SO ORDERED.